

General Counsel

Human Capital Management Plan

Mission

The mission of the Office of General Counsel (GC) is to provide comprehensive legal services to the Secretary and the Department. These services include legal counsel and assistance with respect to every program and function of the Department, except those of the Federal Energy Regulatory Commission. GC assures that the Department operates in compliance with applicable laws and regulations.

Business Vision

GC is working to provide comprehensive legal services to the Department and to ensure that the Department's programs operate in compliance with applicable laws and regulations. GC seeks to maintain adequate legal and support staff to fulfill its mission by providing sound, timely and responsive legal counsel and assistance through negotiation, dispute resolution, rulemaking, legislation and, when necessary, litigation. While GC's mission is not expected to change, the areas of legal expertise required to fulfill the mission may change from time to time.

Human Capital Management Strategy

As mentioned above, GC's goal is to maintain quality legal and support staff sufficient to fulfill its mission. Attracting and retaining quality employees has not been an issue for some time. It is not unusual for a job announcement to attract many applications from well-qualified candidates. Seldom do attorneys leave for employment elsewhere. The vast majority of our attrition is to retirement.

The budget process is always the major consideration in human capital decisions. Any significant reductions in budget requests directly affect FTE levels since non-personnel costs are both fixed and non-discretionary. The level of funding for GC that Congress has provided in recent years has presented significant challenges for GC. The lower levels of funding have resulted in a steadily decreasing number of attorneys in GC over the last several years, and the inability to fill some critical positions when retirements occur.

A vital strategic task is keeping abreast of current legal developments and maintaining necessary levels and mixes of legal expertise. GC accomplishes this task through the workforce review exercise described below. Since attrition is almost exclusively caused by retirement, the use Voluntary Separation Incentive Payments and Voluntary Early Retirement Authority has contributed significantly to attain the desired results. GC expects to continue to use these in the foreseeable future.

Deployment of the workforce is also a vital piece of human capital management strategy. GC is organized so as to provide Departmental elements (such as Assistant Secretary for Energy Efficiency and Renewable Energy, Assistant Secretary for Environment, Safety

and Health, etc.) with “program counsel” with skills uniquely relevant to the particular program. Separate offices also provide specialized legal expertise for issues that affect several program offices, such as procurement and fiscal law. The accompanying chart shows GC’s organization.

GC budget requests depict reliance upon maintaining a workforce with proper training and experience in order to fulfill the GC mission. The understanding by OMB and Congress of the Department’s reliance upon GC to accomplish Departmental goals is integral in obtaining adequate funding.

Workforce Plan

1. **Workforce Review** - Managers of each GC division review their current workforce periodically with regard to current and foreseeable needs required for support of the GC mission. This exercise is conducted yearly. Managers report the results of their reviews to the General Counsel. The General Counsel prioritizes the identified needs based upon factors such as the Department’s mission, the program’s mission and available resources. The last review was conducted in May 2004. It identified the need for additional attorneys with specific skills necessary to support ongoing and new DOE programs and initiatives.
2. **Skill Gaps in Mission Critical Areas** – Skills gaps in terms of critical positions needed to be filled are identified in Attachment A. Skills gaps in terms of employee competency levels are tracked in the Department-wide database. To date there are no significant competency skill gaps in GC.
3. **Hiring Time Goals** – Timeframes for recruitment actions that resulted in hiring during FY 2005 are presented in Attachment B.
4. **Knowledge Management** – In order to most effectively fulfill its mission of providing legal services to the Department, GC is organized into divisions relative to the various legal expertise needed by the Department. The knowledge required by GC can also be identified or described according to the GC division in which it resides. Information will be entered into the Department’s Knowledge Management database by Chief Information Officer personnel and, when the database becomes operational, maintained by GC. GC has initiated electronic record storage and management of records related to the processing of more than 2,000 Legislative Referral Memoranda (LRMs) that are received on a daily basis from the Office of Management and Budget throughout each session of Congress. In each LRM, OMB requests and GC obtains, by very short deadlines, DOE official comments on a wide variety of legislative matters, including draft legislative bills reported out of committee, draft legislative testimony, draft Statements of Administration Policy, and draft letters stating Administration view for House and Senate members assigned to conference committees. These records now will be stored and searchable electronically, thus allowing personnel in GC to more easily access and use the information, use work and analysis that was performed on

legislative matters in prior years, and enable more efficient use of attorney time and expertise. GC is evaluating other ways of using technology to improve knowledge management and the use of existing GC expertise as well.

5. Succession Planning – GC utilizes succession planning and the Department’s leadership programs such as the SES Candidate Development Program, the Leadership Transition Program. GC has often filled key positions, such as Senior Executive Service positions, from within its workforce and will continue to do so where appropriate. Succession planning is also utilized for attorney and support positions. In FY 2004, two positions managerial positions were filled from within; the Assistant General Counsel for General Law, a Senior Executive Service appointment, and the Deputy Assistant General Counsel for Standards, a supervisory position. In FY 2005, a supervisory attorney position in the Office of the Assistant General Counsel for Environment was filled from within. Presently an attorney is serving on a temporary appointment in a Limited-Term Senior Executive Service position. This will provide valuable experience.
6. Diversity – GC rates all supervisory employees on their efforts to build diversity by creating an environment in which all feel welcome and motivated to excel regardless of their personal background. Recruitment efforts likewise disseminate information regarding vacancy announcements widely and in a variety of media, outlets and venues so as to attract highly qualified candidates from all kinds of different backgrounds. GC notifies minority legal organizations regarding access to GC job announcements, including Hispanic organizations. A current GC diversity profile is attached as Attachment C.
7. Incorporating Mission Objectives into Performance Plans – The mission of GC, as stated in the first paragraph of this report, is the provision of legal services. All GC performance plans incorporate mission objectives.
8. Restructuring Improvements – 1) *Reducing Management Layers*: Only about 15% of GC employees have 3 supervisory layers between themselves and the General Counsel, about 65% have 2 layers, about 15% have 1 layer and about 5% report directly. These percentages will change as employees come and go, but probably not materially. There are no present plans to change the general organizational structure. 2) *Improving Spans of Control*: There are currently 5 employees per supervisor in GC. At this time there are no plans for changes because increasing the span of control would not be compatible with rendering proper legal services. 3) *Reducing the Number of Managers*: While there is no present plan for changing the general organizational structure of GC, reducing the number of managers is considered as opportunities present themselves. The position of Assistant General Counsel for Fossil Energy was eliminated. The Offices of the Assistant General Counsel for Legislation and the Assistant General Counsel for Regulatory Law were combined. These actions reduced by two the number of GC SES managers.

| Legal Skill Area: | Current number of positions needing this skill | Current number of positions having this skill | Identified Gap | FY 2005 Goal | FY 2005 2nd Qtr results | FY 2005 3rd Qtr results | FY 2005 4th Qtr results | FY 2006 Goal | FY 2010 Goal | FY 2010 Gap |
|---|---|--|-----------------------|---------------------|---|---|---|---------------------|---------------------|--------------------|
| Immediate Office of the General Counsel | 5 | 5 | 0 | 0 | 0 | 0 | 1 | 5 | 5 | 0 |
| Dispute Resolution | 2 | 2 | 0 | 0 | 0 | 1 | 0 | 2 | 2 | 0 |
| Litigation | 15 | 15 | 0 | 0 | 0 | 0 | 0 | 15 | 15 | 0 |
| Environmental Programs | 15 | 13 | 2 | 2 | 0 | 0 | 2 | 15 | 15 | 2 |
| Civilian Nuclear Programs | 20 | 18 | 2 | 1 | 1 | 0 | 0 | 20 | 20 | 2 |
| International & National Security Programs | 7 | 7 | 0 | 0 | 0 | 0 | 0 | 7 | 7 | 0 |
| Procurement | 15 | 14 | 1 | 1 | 0 | 1 | 0 | 15 | 15 | 1 |
| Intellectual Property | 6 | 6 | 0 | 0 | 0 | 0 | 0 | 6 | 6 | 0 |
| Legislation & Regulatory Law | 11 | 9 | 2 | 2 | 0 | 0 | 0 | 10 | 10 | 2 |
| Energy Efficiency | 4 | 4 | 0 | 0 | 0 | 0 | 0 | 4 | 4 | 0 |
| Power Marketing | 5 | 5 | 0 | 0 | 0 | 0 | 1 | 5 | 5 | 0 |
| General Law | 15 | 15 | 0 | 0 | 1 | 1 | 0 | 15 | 15 | 0 |

General Counsel**Hiring Time Goals****Attachment B**

| Position Type / Office | Application Due Date | Selection Date | Goal Met |
|--|-----------------------------|-----------------------|-----------------|
| Competitive Non-SES (45 day goal) | | | |
| None | | | |
| Competitive, SES (30 day goal) | | | |
| Assistant General Counsel - Environment | 9/09/04 | 3/10/05 | No |
| Non-Competitive Non SES (45 day goal) | | | |
| Attorney, General Law | 6/14/04 | 11/20/04 | No |
| Attorney, General Law | 6/14/04 | 11/20/04 | No |
| Attorney, General Law | 11/22/04 | 12/15/04 | Yes |
| Attorney, Environment | 9/7/04 | 1/03/05 | No |
| Attorney, Civilian & Nuclear Programs | 6/11/04 | 1/06/05 | No |
| Attorney, General Law | 3/4/05 | 3/15/05 | Yes |
| Attorney, Procurement | 2/04/05 | 5/16/05 | No |
| Attorney, Procurement | 2/04/05 | 5/16/05 | No |
| Attorney, Dispute Resolution | 2/28/05 | 4/06/05 | Yes |
| Attorney, Labor | 5/20/05 | 6/24/05 | Yes |
| Attorney, Environment | 5/20/05 | 8/11/05 | No |

| | Number | Percentage |
|-------------------------------|---------------|-------------------|
| American Indian Female | 0 | 0% |
| American Indian Male | 0 | 0% |
| Asian Female | 5 | 3% |
| Asian Male | 0 | 0% |
| Black Female | 22 | 15% |
| Black Male | 9 | 6% |
| Hispanic Female | 0 | 0% |
| Hispanic Male | 0 | 0% |
| Other Female | 51 | 35% |
| Other Male | 59 | 40% |
| Minority | 36 | 25% |
| Female | 78 | 53% |
| Total | 146 | 100% |